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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/091,882
Filing Date: March 06, 2002
Appellant(s): SINGHAL, TARA CHAND

Tara Chand Singhal
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 27, 2010 appealing from the Office action mailed April 27, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

18-32

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,473,739	SHOWGHI	10-2002
5,933,812	MEYER	8-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18, 20, and 30 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the recitation, "a central computer system that is independent from the merchant system" is not found within the specification. Further the Figure 3 does not support this recitation, as cited by applicant,

since there is no clear showing that the central computer system (10) is actually independent from the merchant system.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,473,739 (Showghi et al. '739) in view of U.S. Pat. No. 5,933,812 (Meyer et al. '812).

Re Claim 18: Showghi et al. '739 disclose a payment system for restaurant merchants that provides privacy of customer bankcard data of a customer from a merchant system, comprising: a restaurant bill that shows a payment amount and a service code, the service code includes a merchant number identification to a central computer system that is independent from the merchant system (column 2, lines 56-67; column 5, lines 17-22; column 6, line 27 - column 7, line 8); a wireless device of the customer (22, 24, 26: Figure 2), (i) is entered a data of the service code, a payment amount (column 5, lines 17-22 & column 7, lines 43-55), and (ii) the device wirelessly sends the data to the central computer system which pre-stores customer data and merchant data (i.e. wireless; Figure 2); central computer system has a processor (i) that

identifies (16, 18) the customer (ii) processes a payment request from the customer to the merchant by retrieving customer and merchant data and submits a payment transaction request to an existing payment authorization network (column 7, lines 43-55); (iii) receives a payment approval record from the payment authorization network (iv) wirelessly send a payment approval notification to the customer on the wireless device (column 7, lines 43-55, i.e. acknowledges receipt of goods, acknowledges that the payment is going through); (v) sends the payment approval notification to the merchant system, wherein the central computer system in lieu of the merchant system having submitted the payment transaction request (column 2, lines 56-67), the payment system maintains privacy of customer bankcard data from the merchant system (column 7, lines 43-55; column 5, lines 32-38, i.e. through the internet service provider).

It is noted that the definition of restaurant according to Webster's II Dictionary is, "a place for serving meals to the public." Therefore, Showghi et al. '739 is considered to fully meet the limitation of "restaurant" as recited above, since it is clearly disclosed that meals/food are served to the public (Showghi et al. '739: abstract).

Showghi et al. '739 is considered to disclose the system substantially as claimed, as advanced above, with the exception of requiring the ability to enter an optional tip into the device. Meyer et al. '812 disclose a display that prompts a guest to enter a tip including a pair of function keys for selecting tip entry in the form of a % of the guest check total or a specific tip amount (Meyer et al. '812: column 3, lines 56-60).

Re Claim 19: Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the central computer system stores (i) customer identification data that can identify a customer, (ii) a plurality of customer bank account data and (iii) wireless device notification data that can notify a customer on the wireless device (Showghi et al. '739: column 7, lines 43-47).

Re Claim 20: Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the customer identification data includes use of a personal number that is a combination of wireless device telephone number and a personal identification number that is entered into the wireless device (Showghi et al. '739: if the person is using therein own wireless device, i.e. 22, 24, 25, then their phone number is obviously contained within their personal number).

Re Claim 21: Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the central computer system stores merchant identification data that identifies the merchant to a payment authorization network and merchant computer system notification data that notifies a merchant using the merchant computer system (Showghi et al. '739: column 5, lines 29-32; column 7, lines 43-55).

Re Claim 22: Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including where the service code, further comprising: the service code

includes in addition to the merchant number identification (Showghi et al. '739: i.e. venue code), a table number (Showghi et al. '739: i.e. seat number) and a server number (Showghi et al. '739: i.e. delivery person).

Re Claim 23: Showghi et al. '739 in view of Meyer et al. '812 disclose the system in supra including further comprising: the payment approval notification to the merchant system includes the table number and the server number enabling a display terminal interfaced to the merchant system to display payment status data that includes a date and time (Showghi et al. '739: column 5, lines 17-22), a transaction reference (Showghi et al. '739: column 2, lines 56-67), the table number (Showghi et al. '739: i.e. seat number), the server number (Showghi et al. '739: i.e. delivery person), the payment amount (Showghi et al. '739: column 2, lines 56-67), tip (Meyer et al. '812: column 3, lines 56-60) and a payment status (Showghi et al. '739: column 4, lines 20-24; column 7, lines 43-55).

Re Claims 24-29: Method claims 24-29 are substantially similar to previously rejected system claims 18-23, and therefore the same rejections are applied here using the same art and rationale.

Re Claims 30-32: Method claims 30-32 are substantially similar to previously rejected system claims 18, 22, and 23, and therefore the same rejections are applied here using the same art and rationale.

(10) Response to Argument

Regarding Appellant's argument's against the 35 USC 112 first paragraph rejection of claims 18, 20, and 30, have been fully considered, but the examiner is of another opinion. Specifically, the recitation, "a central computer system that is independent from the merchant system" is not found within the specification. Further the Figure 3 does not support this recitation, as cited by appellant, since there is no clear showing that the central computer system (10) is actually independent from the merchant system. Additionally, it is readily apparent from Figure 4 that the Merchant Database (440) is contained within the cylinder labeled Central System Storage Devices (426) and that both are considered to be part of the overall Central System (10) as evident by the box that is drawn around the entirety of the figure.

Appellant's arguments that neither Showghi nor Meyers prior art teach any combination of the protection of the customer bankcard data from the merchant system, have been fully considered, however the examiner is of another opinion. Specifically, while Showghi doesn't explicitly intend to function as consumer protection that does not mean that it does not provide those functions. Showghi prevents a merchant from handling the consumer's credit/debit card and therefore performs the same functions as applicant's invention.

Appellant's arguments against the structural differences of the prior art versus the claimed subject matter are acknowledged, however the examiner is of another opinion. Specifically, Appellant's arguments are not commensurate with the recitations of the claimed subject matter as no where in the claims is it a requirement that, "the restaurant point of sale computer systems do not receive or store customer identity or customer bankcard data" (page 37, paragraph 2 of appellant's brief). Furthermore, Showghi et al. '739 clearly states that the point of sale computer systems are capable of not receiving or storing any identity or bankcard data, "billing through third party accounts such as the customer's internet service provider or cellular telephone service provider" (column 5, lines 32-38). This disclosure by Showghi et al. '739 additionally teaches that a credit or debit information need ever be given to the merchant, thus protecting the customer's bankcard data.

Appellant's arguments that neither Showghi or Meyers disclose an independent central computer system, a restaurant bill with a service code with merchant identification to the central computer system the central computer system processing a payment transaction in lieu of the merchant system, and sending payment approval notification through the central system wirelessly to the customer's wireless device, are acknowledged, however the examiner is of another opinion. Specifically, Showghi et al. '739 discloses all of these elements in at least the following citations: an independent central computer system (column 2, lines 56-67; column 5, lines 32-38), a restaurant bill with a service code with merchant identification to the central computer system (column

6, line 27 – column 7, line 8), the central computer system processing a payment transaction in lieu of the merchant system (column 5, line 32-38), and sending payment approval notification through the central system wirelessly to the customer's wireless device (Figure 2, column 7, lines 43-55, e.g. acknowledges receipt of the goods, acknowledges that the payment is going through). Therefore, Showghi et al. '739 is considered to fully meet the aforementioned recitations of the claims.

Appellant's arguments that Showghi does not show a central system, are acknowledged, however examiner is of another opinion. Specifically, Showghi et al. '739 discloses a central computer processing center (column 3, lines 25-27). Therefore, Showghi et al. '739 is considered to fully meet the aforementioned limitations of the claims.

Appellant's arguments that, "the Showghi identification code is inherently different than the service code of the claims 18, 24, and 30" are acknowledged, however examiner is of another opinion. Specifically, the service code of Showghi et al. '739 does identify the merchant to the central system (Figure 2; column 2, lines 56-67; column 5, lines 17-22; column 6, line 27-column 7, line 8). Therefore, Showghi et al. '739 is considered to fully meet the aforementioned limitations of the claims.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Lindsay M. Maguire

11/8/10

/Lindsay M Maguire/

Examiner, Art Unit 3693

Conferees:

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

Vincent Millin /vm/